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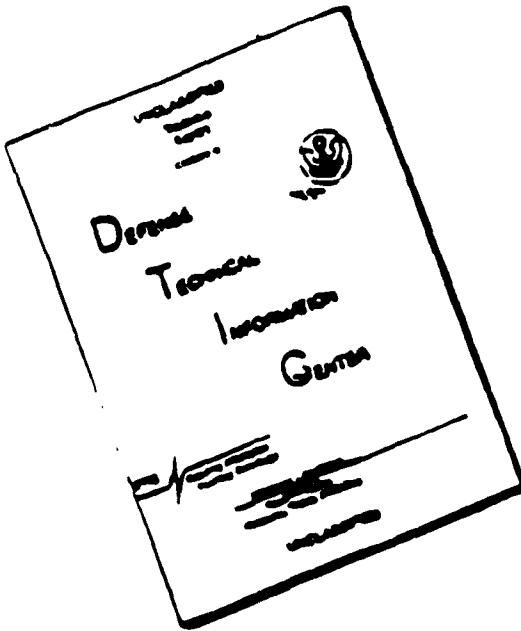
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POLICE PURSUITS: AN ANALYSIS OF POLICY AND TRAINING

**Randall James Richert
B.A., Gustavus Adolphus College, St. Peter, Minnesota, 1985**

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POLICE PURSUITS: AN ANALYSIS OF POLICY AND TRAINING

A Thesis

by

Randall James Richert

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October 4, 1993
Date

Department of Criminal Justice

Abstract
of
POLICE PURSUITS: AN ANALYSIS OF POLICY AND TRAINING
by
Randall James Richert

Statement of the Problem

For decades pursuits have been considered a viable procedure for police agencies as a crime control tool. However, continued increases in population and urban sprawl, coupled with technological advances and increased use of automobiles, have resulted in pursuit policies and training coming under increased scrutiny. This intense questioning of the viability of pursuits has been led by the public which has witnessed, through the media, a growing number of pursuit related accidents. This growing public concern has prompted legislatures to enact law directing the operations of police during pursuits. Also, the courts have handed down rulings further hampering the discretion of police in relation to pursuits. These actions have created impotency among many police agencies who find themselves unable to respond effectively to either the courts and law makers, or to the criminals.

Sources of Data

These included journal articles, books, magazine articles, police directives and policies, government documents, surveys, and personal interviews.

Conclusions Reached

Research has shown that pursuits are a successful procedure for police. However, there is a significant accident rate associated with pursuits. Specific, written pursuit policies, implemented with intensive police driver's training programs have demonstrated positive reductions in pursuit related accidents. Therefore, it is the police agencies themselves who are most able to control and direct their own successful pursuit policy programs.


Thomas Phelps, Committee Chair
Thomas Phelps

Acknowledgment

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CHAPTER 1

INTRODUCTION

STATEMENT OF THE PROBLEM

Throughout history, hot pursuit has been a viable and commonly employed means by police agencies to chase after fleeing criminals. Nearly everyone can imagine the early days of American law enforcement when a posse would be formed to trail after criminals who would usually flee into the sparse countryside. It was natural for a posse to get after these criminals as quickly as possible so that the trail would still be "hot." This is in fact where the term hot pursuit originated from; and it was and continues to be the most assured way for police agencies to capture suspects.

However, the passage of time has created problems for this procedure. The increase in population and coincidental spread of cities has created new and different terrains for police and criminals to operate within. Whereas in the past a fleeing criminal and chasing police might be out of any semblance of an urban area within seconds they now can sometimes never even leave an urban area during a pursuit.

Moreover, the replacement of the foot and horse by the automobile has added to the pursuit problem. Now both criminals and police can either flee or give chase at speeds almost unfathomable less than a century ago.

Finally, the almost absolute reliance by police agencies on vehicles and the increased use of vehicles by citizens, which requires a subsequent increased patrolling by police, has resulted in an ever increasing trend of police vehicles being used as an apprehension tool.

This fact, when combined with the high speeds attainable by vehicles today, and with the increase in population and spread of urban areas, has created a situation where police pursuits become increasingly dangerous not only to the criminals and the police but to innocent citizens as well.

This danger has become all too real what with the increased number of accidents resulting from police pursuits. National media attention has brought this police pursuit accident problem additional attention and the citizenry supports demands for action to reduce the damages caused to life and property. Furthermore, as is the case with many public policies that draw increased attention, the courts have played an ever expanding role. Add to this the fact that written policies for police pursuits were almost unknown as little as ten years ago. Many police agencies still have either no written policy or what they do possess is so broad in scope that it offers limited guidance or easy pickings in a liability suit.

This only adds to the confusion that police pursuit policy engenders in the contemporary American law enforcement community.

PURPOSE OF THE STUDY

It is the intended purpose of this thesis to further examine the subject of police pursuits and from this study to then provide a more detailed and comprehensive understanding of this issue to those who would follow after this researcher.

As with any complex subject, it is impossible to completely cover the broad range of knowledge related to that subject. However, it is possible to provide an improved, more ordered understanding of the issue under examination. Also, it is possible to address specific areas of concern related to a complex subject. Within this thesis specific areas of concern regarding police pursuits relate to police agency policy, police pursuit training, and police liability as it relates to pursuits and policy.

Hopefully, this will provide future researchers and interested parties with a valuable and viable work to refer to as a guide to the topic of police pursuit.

NEED FOR THE STUDY

The need for such a study as this is found in the current popular debate surrounding police agencies and their desire and obligation to develop pursuit policies that not only provide safety for their officers and the

community, but also for the pursued. Additionally, many court decisions within the past few years have pointed to the absence of police policy and a further lack of training that reflects policy, if it exists at all, as a prime reason for any police liability that may arise as a result of pursuit accidents. Because all police agencies are publicly funded through taxes it's obvious that the general public has an additional concern beyond their own fear of being involved in a police pursuit accident. If a police agency is found liable for damages to person or property these costs are directed back to the sponsoring public as increased taxes to cover these costs. This thesis can serve as a warning and guide to interested parties that police pursuit policy, training, and liability are all interwoven and manageable.

SCOPE AND LIMITATIONS OF THE STUDY

This thesis will encompass an examination of several key areas associated with police pursuits. This will focus on the areas of police pursuit policy, training, and liability. Initially, an extensive literature review will be conducted to provide a good background, both historical and technical. This will include an examination of court cases which have had an impact on police pursuits. Next, experts from the field will be interviewed for their first hand experience and knowledge to provide an up to date perspective on the topic. For an in-depth look at

training, the California Highway Patrol Academy will serve as an example of a police agency which has strived to meet the ever changing demands of police pursuit policy.

Additionally, as this researcher is a member of the United States Air Force (USAF), this thesis will also analyze the Air Force Security Police policy on pursuit and offer a comparison to civilian agencies.

Finally, a survey of 48 state police agencies will be conducted in conjunction with the California Highway Patrol (CHP) which addresses the issues of pursuit ending techniques and policy guidelines. This is a comparison study to see if these agencies have similar techniques and policies concerning pursuits.

Limitations to the study include the time and money available for research and testing. However, these factors are not so confining that they detract from the critical information gained from this research. There is certainly time available to conduct the aforementioned literature review, interviews, examination of the CHP Academy and USAF programs, and the state police agency survey. Neither are the cost factors prohibitive to these functions. The final limiting factor is the fact that police pursuit policy is a rapidly evolving problem that can change almost daily for respective police agencies dependent on their situation. This is limiting to this study because what is reported today as fact may be changed by tomorrow. However, this is

another one of the reasons a study of this topic is so viable and relevant at this time. This issue is at the very cutting edge of police agency policy and it needs to be immediately and continually addressed.

METHODOLOGY

The methodology for this study consists initially of an extensive document analysis of the past and current literature available on the subject. This document analysis will include examining relevant books, journal and magazine articles, and numerous studies previously conducted on police pursuits. As this topic has only recently begun being studied almost all the available literature available will be from within the last ten years except for earlier sources which have historical significance. In fact, most journal and magazine citations are from within the last three years.

Examination of USAF and CHP materials will also consist of document analysis but will include interviews, personal experience, and hands on trial as with the case of training, (the CHP has allowed this researcher to actively participate and observe their driver's training procedures and this researcher is a graduate of the USAF Security Police Academy).

Document analysis will also serve as the means of examination and presentation of relevant court cases. The proximity of the University of California, Davis, Martin

Luther King Law Library, has allowed for excellent access to these court decisions and any law briefs regarding them.

Finally, the survey of state police agency policy relating to police pursuit ending techniques was provided by the (CHP) which had already initiated this survey when they were contacted by this researcher. It consists of a basic questionnaire format requesting other state police agencies to examine their policies in comparison to a provided (CHP) policy and to reply with comments or suggestions about the topic. This survey will provide for an immediate comparison of state police agency policy, which in many cases drives city, county, and local policy. This contributes a broad overview of contemporary pursuit ending techniques policy within the United States.

DEFINITION OF TERMS

The concepts to be examined in this thesis are rather specific but do require some definition. It is beneficial to use the research already conducted as most of these concepts have already been defined by them. It is additionally beneficial that all the literature considers the main concepts, especially that of police pursuit, to be defined essentially the same way. This adds credibility in the literature because when the operational definitions are similar then there is greater assurance that all are analyzing the same concepts. Some of the most relevant concepts will be presented and defined here:

- **Police Agency:** Any formally recognized agency that provides law enforcement duties as one of its primary functions. Examples include any federal, state, city or local police force such as the United States Marshal's Service, the California Highway Patrol, the Sacramento Sheriff's Department, or the United States Air Force Security Police.

- **Police Officer:** A sworn member of a police agency who is granted law enforcement powers including arrest.

- **Suspects:** Any individual or group who is believed by a police officer(s) to have committed an offense against the law.

- **Innocent Third-Party:** An individual or group who is not connected with or involved with, either the police or suspects in a situation, other than by their presence which is up to chance. Another term for this would be innocent bystander.

- **Vehicle:** Any motorized ground transport such as a car, truck, motorcycle, etc... This is intended to exclude airborne transport such as planes and helicopters.

- **Driver:** The individual who is in principal control of a vehicle and can either continue conveyance of the vehicle or stop it.

- **Passenger:** An occupant in or on a vehicle other than the driver. It is possible for this individual to also be an innocent third-party.

- Police Pursuit: The close chasing, by means of a ground vehicle (in most cases either a car or motorcycle), of a suspect who is fleeing from police by means of a separate ground vehicle. This usually includes attaining speeds which are above posted speed limits and the violation of various other traffic laws.

- Police Pursuit Related Accidents: Any incident, whether caused by police or the a fleeing suspect, that results in either damage to vehicles or property, or injuries to police officers, suspects, or innocent bystanders. Because almost all data available regarding this subject comes from police reports, information relating to accidents, and personal or property damage, is subject to local police guidelines. However this should present no problems for this study.

- Police Driver's Training: Any organized and recognized program which police agencies participate in that is intended to increase driver awareness or improve driving skill. These include supervisory courses which train police managers how to better emphasize driving safety and skills during everyday duties. These programs can be either intra-departmental or outside of the agency.

These definitions indicate that there are no unfamiliar concepts in this study and the average reader who may not even have slight knowledge of police procedures should have no trouble with comprehension of terms.

ORGANIZATION OF THE STUDY

This chapter has served as an introduction to the topic of police pursuits as well as establishing the importance of this study and how this thesis will attempt to address this subject. What can be expected to be found in the next three chapters will now be presented.

Chapter Two will consist of a review of the literature as it pertains to police pursuits. Once again, this chapter will concentrate on the areas of police pursuit policy, training and liability; however, a much broader and in-depth examination of this subject will be presented. This will consist of a historical analysis of the police pursuit issue which will include the early writers in the field as well as current experts on this topic. All the classic books, journal articles, and research studies from this field will be addressed explaining their significance to the study of this topic. This will also cover the theories, both past and present, which have guided policy and the training dealing with police pursuit. More specifically, it will address the theory v. practice predicament which accompanies many complex problems in the contemporary public policy arena.

The literature review chapter will also speak to the area of court decisions that have impacted police pursuit policy. There has been an ever increasing role played by the courts as more and more liability suits have been

brought up regarding accidents with police pursuit. This should give the reader a better understanding of the direction of the courts and how court decisions affect both policy and training regarding pursuits. Chapter Two will conclude with an examination of the five major trends in current pursuit policy programs.

This will conclude the literature review but will also provide a transition into Chapter three. Whereas Chapter Two concluded with an examination of the five major trends in pursuit policy, Chapter Three will offer an in-depth examination of the California Highway Patrol and its policy and training regarding pursuits. The CHP has been at the forefront of the police pursuit issue for years and this will provide for an excellent view of an organization committed to providing top-notch law enforcement to the community.

The state police agency survey of pursuit ending techniques will be presented in Chapter Three and it will compare the CHP with other state police agencies throughout the United States. This chapter will provide a detailed synopsis of the pursuit issue from the viewpoint of a respected and innovative police agency.

Finally, the USAF Security Police policy on pursuits will be discussed. This section will be presented in relation to the literature and documents pertaining to the civilian community and specifically the California Highway

Patrol. The comparison should offer a unique look at military police policy and how it both agrees and differs from its civilian counterpart.

The final chapter will consist of a summary of the material presented followed by conclusions and recommendations for future study and research. An interesting ancillary issue involving the courts will also be covered. This deals with Fourth Amendment rights under the United States Constitution which encompasses the individual's right to privacy and police search guidelines, procedures, and limitations. This will be followed by a bibliography of works cited for this thesis which will serve as a reference guide for future study.

CHAPTER 2

LITERATURE REVIEW

THE RESEARCH

The first mention of police pursuits in any kind of research study was in 1968 when the Physicians for Automotive Safety included a section on pursuits as part of their national annual survey of automotive accidents. Soon after, in 1970, the U. S. Department of Transportation conducted another national survey that also included mention of police pursuits. Together these two studies presented a very disheartening picture of police pursuits. Their combined statistics showed that every year:

1. 50,000 to 500,000 "hot" pursuits occur.
2. 6,000 to 8,000 pursuits end in crashes.
3. 300-400 people are killed.
4. 2,500 to 5,000 people are injured.
5. 70% of pursuits end in accidents.¹

Although these were the first and only statistics available at the time they came under immediate scrutiny and attack by both the academic and law enforcement communities.

Anthony Aeilts, A sergeant with the Chico, CA Police Department, and training coordinator for the Northern California Criminal Justice Training and Education Center, points out that this scrutiny and the passage of time came to show that these studies were wrought with data collection and methodological problems. It is evident that the parameters of the above statistics left much to be

desired and hardly determined the true scope of the pursuit problem, or even if there was one. Aelts also notes that when the studies were released the law enforcement community perceived many of the statistics, especially that of 70 percent of all pursuits ending in accidents as "inherently in error."² After all it was the police agencies who really knew how many pursuits there were and what number resulted in accidents. This fact prompted academic researchers and law enforcement agencies to conduct further studies that would better represent the true dimensions of the pursuit issue. However, it should be noted that the two studies mentioned above continue to be quoted today by the media and law enforcement despite the recognized data uncertainty.³ An example of this continued use of misinformation is the following reprint of a comment by A. Stone and S. Deluca from their 1985 article on pursuits:

One of the major areas of controversy in traffic law enforcement, and in patrol administration generally, is the practice of pursuing fugitives at high speed . . . High-speed pursuit is an exceedingly dangerous kind of police operation. It is dangerous not only for the police officer and the fugitive, but equally so for innocent citizens who happen to be in their path . . . More often than not, a high-speed pursuit ends only when either the fugitive or the officer is involved in a collision, often a fatal one.⁴

It was just such published material, wrought with misinformation but heavy on emotional appeal, that

convinced law enforcement personnel and academicians to conduct their own research.

The most recognized and quoted study to emerge out of this response to the early studies is the California Highway Patrol's (CHP) Pursuit Study of 1983. This study began the CHP's connection with the police pursuit issue which has catapulted them to the forefront of policy and training revision in relation to pursuits.

This relationship continues today and most recognized major studies involving police pursuits have found and continue to find results similar to the CHP study. This just adds credence to this already widely accepted research study. Two notable studies from the academic community which found similar results were conducted by Dr. Erik Beckman at Michigan State University (MSU) in 1984, and by Drs. Geoffrey Alpert and Roger Dunham, who released their Metro-Dade Police Study in 1988. The MSU study examined 424 pursuits from 75 police agencies in nine separate states.⁵ The Metro-Dade pursuit study examined 2,200 police officers who had initiated 398 pursuits.⁶ Another police agency study that found results similar to the CHP was conducted by the Baltimore County Police Department from 1986 through 1989. This four-year study examined 694 pursuits and 1,534 officers.⁷

What the CHP study found was that:

1. An accident of some kind occurs in 29 percent

of pursuits.

2. Injury accidents occur in 11 percent of pursuits.
3. Fatal accidents occur in 1 percent of pursuits.
4. About 70 percent of pursuit-related injuries occur to the occupants of the pursued vehicle.
5. About 14 percent of the injuries are to law enforcement officers.
6. About 15 percent of the injuries are to innocent bystanders.
7. 28 percent of fatalities are to innocent bystanders.⁸

These figures were not only common to several studies but they were also much more specific to the police pursuit issue. They helped to define the actual problem much more clearly than in the past. Whereas the earlier studies reported that 70 percent of pursuits result in accidents, recent and more scientific research studies found the more accurate figure to be much closer to 30 percent.

The law enforcement community probably breathed a collective sigh of relief regarding these new studies because as Chief Timothy Grimmond, El Segundo Police Department, a 27-year police veteran and former commander of the Westside Narcotics Enforcement Team consisting of 13 law enforcement agencies in the South Bay area of Los Angeles County points out, these studies also found that police were successful in apprehending the fleeing suspects in over 73 percent of the pursuits initiated. This was proof of something police knew already; "fresh" or "hot" pursuit is the most assured way of apprehending suspects!⁹

This statistical result has been ignored throughout much of the anti-pursuit literature. This body of works

tends to adhere to the old set of statistics that show pursuits as almost always ending in accidents.¹⁰ Therefore this group has questioned the use of pursuits as a tool of law enforcement. As recent as 1991, Michael B. Blankenship and James M. Moneymaker, both from Memphis State university put forth such a claim. In a paper entitled "Unsafe at Any Speed" which was presented to the annual meeting of the American Society of Criminology they wrote, ". . . on the basis of their utility, we suggest that many police pursuits are counterproductive. The broader aspect of our argument is that liberal pursuit policies are the antithesis of order maintenance."¹¹ The difference noted between these individuals and the proponents of police pursuit is that pursuit proponents have research studies and proven statistics on their side. Blankenship and Moneymaker make an interesting argument but until there is empirical research to support their claim it simply remains an unproven opinion.

On the other hand there is ample support for the fact that police pursuits are successful in removing criminals from the streets. This was the case in a research study conducted in Australia by Neil Brewer and Gerry McGrath both assigned to the National Police Research Unit in Adelaide, South Australia. Their examination of 143 pursuits found that the police were successful in apprehending the suspects in 80 percent of the pursuits.

Another interesting result of their study was that only 4.9 percent of the pursuits studied resulted in accidents.¹² This is minuscule compared to the American rate (approximately 30 percent), and the researchers could offer few explanations, making this a definite area for future study.

The Australian study concurred with another American finding regarding the high apprehension rate for suspects as well. Brewer and McGrath found that a large number of those apprehended were already law violators who were wanted for previous offences or did not possess current driving privileges due to prior offences and "would be considered to represent high risks on the road under everyday driving conditions, let alone with the additional risks associated with a high-speed pursuit."¹³ This concurrence is represented in the American literature by an additional study conducted by Drs. Alpert and Dunham who were mentioned earlier as authors of the Metro-Dade pursuit study. Their later 1989 study found that,

While a majority of the pursuits were initiated for relatively minor traffic infractions, many of those apprehended were charged with serious felony offences unrelated to the pursuit (nearly 50 percent). This indicates that many offenders flee from the officer because of concern over more than the traffic offense that initiated the pursuit.¹⁴

This fact just adds more viability for the use of pursuits as a police tool; it shows that around half of the

suspects stopped on pursuits are already wanted and that is probably why they are fleeing anyway. However, Alpert and Dunham point out in yet another article that, "it is important to note that the level of risk involved in these pursuits must be balanced against the need to immediately apprehend the suspect and the deterrent effect of criminal apprehension."¹⁵

This latter statement clearly portrays the duality of the police pursuit issue and defines the theory v. practice dilemma confronting researchers and practitioners of police pursuits. Whereas theory shows that pursuits are a very viable and successful tool for police to use, practice has shown that it can be a very damaging, costly, and even deadly instrument when applied. As Alpert and Dunham point out, "Even though an officer may conduct the 'perfect' chase by following all policy directives and by making the right decisions, the chase may result in the worst possible outcome due to some unforeseen contingency."¹⁶ This places the burden directly on the police to develop policy and training that will reduce the potential risks involved with pursuits to an acceptable level while still providing positive protection to the civilian community.

And protecting and serving the general public is the goal and charge of all police agencies, therefore, all this research and debate over pursuits is beneficial to the citizenry as well. Not only will all the research make for

a better informed public, it will also show that their police agencies are concerned about the issue and are attempting to do something about a recognized problem which hopefully fosters confidence in the local police. Additionally, the fact that pursuits have been proved successful and will therefore be continued as policy will ensure that the public stays better protected by the continued apprehension of criminals. And finally, because this research is causing police agencies to examine their policies and training programs, hopefully the accident ratio with pursuits will begin to show a downward curve as better policy and training take effect. Such has been the nature of research and the pursuit issue; research alerts the public and the police, and then there is a subsequent positive response by the police. Hopefully, this trend will continue as it will be beneficial for both law enforcement and the public.

Some of the top researchers have already been mentioned but more of their studies will be presented here. In addition to Erik Beckman at Michigan State University the top two researchers in this field are Alpert and Dunham. Several of their studies have been mentioned but they have also authored three books on police issues, two of which are directly related to pursuits. The first, Police Pursuit Driving: Controlling Responses to Emergency Situations, is a compilation of their authored papers and

provides a systematic examination of the entire issue of police pursuits. It is a most important resource for anyone studying this issue. The second book, Police Vehicles and Firearms: Instruments of Deadly Force, was written by Alpert and Lorie A Fridell, an expert on deadly force, and explores the issue of police pursuits in comparison to the police use of force policy. This question is a recent one which will be addressed in the final chapter; however, this book provides important understanding of pursuits and thus is a critical resource for the police pursuit researcher. Studies such as these have allowed Alpert and Dunham to gain their position as the leading researchers on this topic. And, quoting from another article by of Alpert, it is evident that these researchers hope their findings will influence pursuit policy into the next century. He writes,

Moving into the 1990s, many police strategies that have developed based on custom are being modified with strong guidance from empirical research . . . Hopefully, this law on police pursuit, as well as policy development, training and supervision, will be influenced by empirical findings.¹⁷

Of course, additional research has been conducted on the police pursuit subject, and the high visibility of the subject will ensure that more is conducted in the future. As this happens more researchers will gain eminence in the field and more works will gain classic status. However, until this date no studies have found data inconsistent

with that reported since the 1983 CHP study which makes this the first classic work conducted in this area. The other pioneering studies would be those already mentioned at the beginning of this section. As has already been noted this research has already influenced policy, but before exploring current policy, the next section will focus on the history of pursuit policy prior to the availability of these empirical studies.

POLICE PURSUIT POLICY: THE EARLY YEARS

The common thread regarding early police pursuit policy was the absence of policy. Although the term "early" is relative, police pursuit policy can be traced to the time when vehicles were first used by police agencies for the pursuit of criminals. The earliest use of vehicles can be found in August Vollmer's Berkeley, California, police department in the early 1900s. He is known as the father of modern American law enforcement, and was the first to use bicycles, then motorcycles, and finally radio equipped cars.¹⁸ However, there is no mention of police pursuit policy in Vollmer's writings or in those which refer to his contributions. Rather, there is a wide variety of comments on vehicle employment and use.¹⁹ This lack of attention is attributable to two possible reasons. First, Vollmer may not have perceived a need for pursuit policy; the small numbers of vehicles on the road and their relatively slow speeds at the time may have prevented the

matter from being an issue. Secondly, those who studied Vollmer wrote their books at a time when police pursuit was not an issue in law enforcement and, therefore, they failed to make reference to it. Regardless of the reason, the fact remains that there is a paucity of information on police pursuit policy from that era and this trend continued up through the 1950s.

It's not until 1960, with the publishing of a book by Beryl Langford, a professor at Michigan State University and former Lieutenant with the West Virginia State Police, that police pursuit policy is alluded to in the literature. Langford wrote his book along with three other knowledgeable individuals: Robert Sheehan, Chairman of the Law Enforcement and Security Department at Northeastern University and a former Special Agent with Military Intelligence; Thomas F. Lobkovich, from the Cadillac Motor Car Division of General Motors Corporation; and Paul J. Watson from the United States Treasury Department. Their collaboration entitled Stopping Vehicles and Occupant Control, was intended as a clarion call to police chiefs and a training guide for police agencies. According to the authors it seems that the late 1950s was a period of growth in crime rates, especially crimes associated with vehicle use, but without a subsequent increase in awareness and response by police agencies.²⁰

These authors attempted to explore all possible traffic contingencies relative to the daily duties of a police officer. However, even with this in-depth goal they hardly touch upon the issue of police pursuit, managing only five lines in the whole book committed to the subject:

The police officer on vehicular patrol duty should have a good, basic understanding of pursuit driving, . . . Pursuit driving is that driving which concerns itself with the pursuit and apprehension of a violator or violators in a moving motor vehicle.²¹

These writers accurately assess the general feelings of most police up to that time. Generally, pursuit was not a concern in the areas of training and policy. Rather it was considered a natural and everyday part of police officer duties and officers were just supposed to know how to deal with pursuit matters.

By 1965 police pursuit policy was beginning to emerge as a topic of concern, but it still was a background issue. In that year, G. Ray Wynne, Police Transportation Superintendent for the City of Los Angeles since 1954, published a definitive book on police vehicle operations. Police pursuit policy was now finally rating at least a paragraph in a book and Wynne even felt it was, "an important factor in determination of proper vehicle application," and that, "department policy should be examined to determine when an officer is to pursue a violator or suspect . . ."²² Here, at last, there is

some mention of departmental policy in relation to pursuits, but there is still no direct reference to a specific policy or any citations identifying books or articles written about the subject.

By 1970 the situation remained much the same. In that year the ENO Foundation for Transportation published their book Speed Enforcement Policies and Practice and there is no mention of pursuit policy within the work. Once again, it appears as though there was no popular concern regarding police pursuits or it would surely have been mentioned at this time in a book referring to this type of police agency duties.

It's not until late 1979, when Myron E. Scafe, Chief of Police for the Overland Park, Kansas, Police Department (PD) and Captain John E. Round, Commander, Overland Park PD Operations Division, wrote an article for Police Chief magazine that police pursuit policy was directly addressed as a topic of concern for police agencies. These individuals were realizing, as were other police agency personnel at this time, that pursuits were beginning to be portrayed more and more negatively in the media and that increasing public concern was present. Also, departmental guidelines for pursuits were non-existent and officers were almost coerced into pursuits by "peer-pressure" from their fellow officers who frowned upon any flight from the police as a slap in the face of their authority.²³

Realizing their predicament these two police administrators sought out information on policies and procedures from a variety of police agencies throughout the country so that they could incorporate the best ideas for their own training and policy. But, what they discovered both surprised and concerned them because,

. . . only a few agencies had developed procedures that dealt with the central issue, asserting control over the discretion exercised by patrol officers when initiating or continuing a pursuit. Most of these policies simply reiterated the existing state law governing the operation of emergency vehicles. They are broadly written and frequently ambiguous. Generally laws provide only that an officer exercise due care when driving under emergency conditions and do not totally relieve the officer of responsibility for an accident. The lack of clear-cut policy is that the officer is left with little formal procedure to follow.²⁴

This article can be considered a watershed mark in the history of police pursuit policy. Published in the last month of 1979, it summarized the predicament that non-recognition and denial had created for the police agency. Up to this point it was assumed that police pursuit was something that had always been present though unstudied. If it was just left alone then every thing would be alright. Many police agencies had been and would continue to play ostrich and bury their collective heads in the sand. But the problem did not lessen and from 1980 to the present time, hot pursuit has become a high priority police policy topic.

PURSUIT POLICY: THE PRESENT

Current literature on pursuit policy (from 1980 on) is consistent regarding the prerequisites for an effective police agency program for pursuits. Five major components are emphasized in the literature as essential if the law enforcement community is to continue employing pursuits as a viable and justifiable tool. These five components are the following: (1) a public information campaign; (2) a very defined, written pursuit policy; (3) a training program that imparts the guidelines of the written policy; (4) increased supervisory control of pursuits; and, (5) a review panel that investigates pursuits in a manner similar to police shooting incidents. These components are all interwoven and complementary. To be successful in the pursuit arena, police agencies will have to find the correct implementation of the aforementioned policies, and ensure that any new changes in public opinion surrounding this issue are continually addressed.

The following subsections will discuss each of the five components separately. Included in these sections is the rational supporting each component, together with the relationship of the courts to these areas, the present status of each component, and finally, some predictions concerning what the future may hold for a specific component.

INFORMING THE PUBLIC.

The first of the components, a public information campaign, serves two purposes. Initially, it can better inform the public as to how and why pursuit is used as an enforcement tool by the police agency. The recent community policing trend offers a unique opportunity for the police to provide an understanding of their policies to the public. Including an information campaign on pursuit policy, and the success of this policy, would easily fit into an expanded community policing role.

Hopefully, this would counteract some of the investigative television shows which continue to display the bloody side of pursuits in an attempt to increase television ratings. In a 1993 article, Chief Earl Morris, who heads the Standards and Inservice Training Bureau for the Utah Department of Public Safety, comments on how these television shows continue to give the public a "distorted and misleading message."

This particular program [High Speed Pursuits, Inside Edition, Nov. 1992.] characterized the police as reckless and undisciplined men and women whose only goal is apprehension, regardless of the consequences. The violators were portrayed as naive citizens who inadvertently had burglarized several vehicles and then were victimized by the police when they chose not to stop for the emergency lights. The suspects were killed when their vehicle rolled on the first corner, just 38 seconds after the officers attempted to initiate the stop.²⁵

The second purpose an of information campaign would be to reduce incidents as the one presented above. This is pointed out by James O'Keefe, an officer with the Field Operations Command Office of the Houston Police Department in Texas. O'Keefe believes that "Potential drivers should be taught as a part of their driver education training that the only rational response to an officer signalling you to pull over is to do so."²⁶ He contends that an informed public can make better choices and that information campaigns do create a positive impact. Take for instance, "similar public campaigns against drunk driving [which] have experienced tremendous success throughout the country, there is no reason why pursuits campaigns cannot enjoy that same success."²⁷

These citations support the need for a public information campaign which is compatible with the desires of the law enforcement community who themselves wish to be viewed in a better light because this creates better community relations and more respect for the maintenance of law. All of this is much more than an image campaign, rather it strengthens the bonds which tie communities together. If Americans are going to continue to live together in a society guided by the rule of law, then it is in the best interest of all citizens, and the law enforcement community as well, that the police and the community understand each other as much as possible so that

distrust and fear, which are elements of any unknown, may be reduced to a minimum.

The current state of information campaigns in relation to police pursuits is not very positive at this time. In many cases police agencies operate in military like fashion and the inside, departmental information is guarded to a point where police agencies do themselves excess harm by adhering to outdated concepts. Furthermore, since most department public relations offices are set up to deal with complaints, they serve a reactive rather than a proactive role. To compound this, budgeting constraints tend to always delete periphery programs first as opposed to what is viewed as everyday law enforcement duties, thus reducing the money available for citizen information campaigns. The controversy over police pursuits has raised the possibility that police agencies might lose one of their essential tools if they fail to inform the public as to why pursuits are conducted, how they are conducted, and how the success of this policy is achieved.

It is unfortunate that the public obtains their view of the police from the television or when they themselves are stopped by the police. In most situations these events create either a false image or a negative one for the citizen. In another article by Chief Morris, the point is raised that police must start taking a leading role in

determining how they are perceived by the public. He claims that,

Currently, private organizations take the initiative to encourage the entertainment industry to give a more responsible depiction of the consequences of a pursuit. It is equally important that the law enforcement profession send the same message and require a more accurate portrayal of police duties . . . Perhaps an aggressive antipursuit campaign, broadcasting the hazards and ultimate consequences, would also deter motorists from trying to escape the police while in their vehicles.²⁸

What this means for police agencies is that they must modify their own behavior if they are going to modify the way in which they are portrayed and ultimately viewed by the public. The emergence of community policing and proactive policing are already superb examples of this, and as mentioned earlier, both present an excellent medium for spreading the message on pursuits. If this simple and first step is not taken by the police then all the other components of a pursuit policy program may be ineffective.

WRITTEN POLICY AND TRAINING

Policy and training are included together because they are related in their implementation. Policy without a training program is vacuous, and training without policy is both an undirected and unevaluated program. And just as an information campaign is necessary to ensure that the public is brought up to date on pursuit policy, then specific, written policies and training programs that teach the guidelines of these policies, are necessary to keep police

officers informed and trained on just what they are expected to do and what are their limitations in respect to pursuits. However, whereas the need for an information campaign is found in the law enforcement desire for a better image, the defining impetus behind written pursuit policies and corresponding training programs has been state and federal laws, the courts, and the subsequent desire of the police to not be further dictated to by the courts.

Central to this situation is the issue of liability. Whereas in the past the courts have been reluctant to find the police liable in all but the most negligent pursuit cases, it is now necessary for the police to show not only that they were not negligent but that they took proactive steps to reduce the possibility of death or injury when conducting pursuits. Daniel L. Schofield, a Special Agent and lawyer who heads the Legal Counsel Division at the FBI Academy, explains how statutes at the federal and state level have for years exempted police from certain traffic regulations, "such as speed limits, traffic signals, and the right of way."²⁹

This exemption was carried over to the court room. It was generally understood that if the police were exempt from these regulations then they necessarily must be exempt or immune from liability when an accident occurs conditional to not following these traffic regulations. In most cases this occurred during a pursuit and the courts

were very reluctant to find against the police in all but the most negligent situations.³⁰ However, as the incidence of pursuit related injuries increased and as the litigation trend in America grew during the 1980s the courts began to apply more scrutiny to police pursuit cases. Sean M. Carlin, notes that in 1986 the courts started to look beyond the statutes and began examining police pursuit policies and training programs. An example of this was the case of Swellick v. Mottola involving a high speed pursuit which ended with the suspect's car crashing into Swellick's car at 80 miles per hour. During the case, lawyers for the plaintiff were able to show the court that the police department involved had no policy on pursuits and that, "the only instruction regarding high-speed pursuits received by the driver of the patrol car occurred on his first day of work, when he was told by a lieutenant to 'use caution'."³¹ The case never concluded due to Swellick settling with the municipality, but the city was aware of the limited options.³²

Agent Schofield presents another case, Nelson v. City of Chester, Ill., where "it was held that the city's breach of its duty to properly train its police officers in high-speed pursuit might be found to be the proximate cause of the pursued driver's death, notwithstanding the contributing negligence of the pursued driver."³³ He contends that due to cases of this type, "most experts

recommend that law enforcement organizations adopt written pursuit policies that impose specific controls on the operation of pursuit vehicles."³⁴

Chief Timothy Grinnond, mentioned earlier, writes that recent court cases, some at the U.S. Supreme Court level, have considered the future of police pursuits in relation to training. The most compelling of these cases was Canton v. Harris where the U.S. Supreme Court decided "that inadequate training can become the basis for liability" in pursuit cases.³⁵

In yet another paper, presented at the 1986 annual meeting of the American Society of Criminology, Richard G. Zevitz, a professor of Criminology and Sociology at Marquette University, details the liability issues associated with pursuit policy and training. This extensive study explores the entire pursuit issue from a legal standpoint and makes a major contribution to the literature on police pursuit liability.

Zevitz points out that due to court cases and liability awards, Wisconsin "joins the growing list of states which mandate formalized pursuit guidelines for emergency police vehicles."³⁶ He also addresses the training issue as it relates to police pursuits and how police are viewed by the courts as having a higher standard than the ordinary citizen.

The law demands that they not only exercise reasonable care in what they do, but also that they possess a certain amount of special knowledge and ability. Accordingly those persons trained as police officers must conduct themselves in a manner consistent with that training. Thus, in high speed chase situations, pursuing police officers must use that degree of care which is deemed reasonable in light of their special training and experience . . . For police professionals, that level is measured by the occupational skill and training commonly accepted by those who undertake this line of work.³⁷

Sgt. Stephen G. Foulds, Chief of the Emergency Vehicle Operations Course at the California Highway Patrol Academy, agrees with this assessment but takes it a step further. In one of several personal interviews with this researcher, Sgt. Foulds pointed out that it's not only necessary to have a clear cut pursuit policy and an intensive training program, but that the training conducted must mirror what the pursuit policy puts forth as guidelines for officers to follow.³⁸ In fact, the CHP is so concerned about this issue that their commissioner, Maurice J. Hannigan, has instituted a review process where all supervisors and managers must review the written pursuit policy. This is done to "emphasize accountability and responsibility in pursuit driving, as well as self-control, to achieve the swift, efficient apprehension of violators without compromising public safety."³⁹

There are many other court decisions, at all levels, dealing with police pursuit but the overall trend has been set. Therefore, the only course of action for professional

police agencies is to vigorously initiate pursuit policy and training that will hopefully ensure their organization's immunity from liability.

Not all liability can be eliminated but it can be greatly reduced at the organizational level. Liability at the officer level would also be reduced. There still may be individual officers who disregard policy and in these cases liability is a strong possibility.

There are additional steps that police can and must take to reduce liability and make pursuits safer. They must increase supervisory control and review of pursuits.

SUPERVISORY CONTROL AND REVIEW

The need for supervisory control over pursuits is found in the fact that an individual removed from the pursuit itself is many times in a better position to determine whether the pursuit should be continued or terminated. Additionally, supervisors bring more experience and training to the job and so they are obligated to apply more criteria to the pursuit at hand. Finally, most departments have a designated supervisor at the dispatch center which provides the organization with an overall picture of the entire patrol and pursuit situation and from this monitoring position a better judgment on the pursuit can be rendered.⁴⁰

An additional benefit of supervisory control is presented by I. Gayle Shuman and Thomas D. Kennedy. They

point out that, "In addition to the advanced training and experience of the supervisor, the supervisor is not directly involved in the pursuit and has no 'ego' problems in analyzing the facts as to pursue or not to pursue."⁴¹ FBI Special Agent Schofield agrees with this observation and states, "An officer not immediately involved is in a better position to oversee objectively the pursuit and decide whether the pursuit should continue and under what circumstances."⁴² Maurice J. Hannigan, Commissioner of the California Highway Patrol, details that department's views on supervisory control when he writes,

When officers are regulated by a written pursuit policy and properly supervised during pursuits, the potential for tragedies is greatly reduced. Proper supervision helps ensure that the pursuit officer's decision-making process is sound and eliminates the possibility of the 'pursuit at any cost' mindset.⁴³

If supervisory control is necessary during pursuits it is maybe even more so after pursuits are terminated. However, many departments appear to forget about this important component of a pursuit policy. Based on his experiences in Houston, Officer James O'Keefe considers that, "the post-pursuit responsibilities of the police administrators are perhaps the most neglected."⁴⁴ This is an unfortunate situation because it is in the aftermath of a pursuit, especially one that has resulted in an accident, that much useful information can be gained. O'Keefe feels that the police should fill out a mandatory "pursuit form"

after each pursuit. This form should include all pertinent data on the pursuit which "will provide a vast and detailed foundation of knowledge to a police agency" when compiled with other pursuit data.⁴⁵

On the other hand, Shuman and Kennedy believe that, "the primary purpose of reviewing high speed pursuits, as in shootings, is to determine if the pursuit was carried out within existing policy."⁴⁶ Additionally they point out that "an added benefit of a mandatory review of all high speed pursuits is that it shows the public the agency is concerned about pursuits and is aggressively trying to manage this growing use of 'deadly force'.⁴⁷

Chief Earl Morris (Utah department of Public Safety) even includes "Tracking" of pursuit data as one of his 9Ts Approach to modifying pursuit behavior. He notes how the California Highway Patrol uses its critique of every pursuit, "to identify those officers who need to be retrained and to communicate problems to all employees, in order to minimize the danger to the public."⁴⁸ In fact, the CHP is so concerned about supervisory control and review of pursuits that its Middle Management Class I-91, in August of 1991, was solely committed to reviewing the CHP's policy, training, and review process for pursuits. This class is, at some point, attended by all CHP lieutenants and civilian managers and is considered a necessary prerequisite to any type of promotion. During

the I-91 class, six separate reports were generated by over 30 CHP officers on the subject of pursuits, demonstrating an organizational commitment to continually improve its response to the pursuit problem. The CHP feels that by emphasizing pursuit training at the supervisory level there will be a subsequent trickle down effect to all personnel.⁴⁹

A final explanation for reviewing pursuits and maintaining the data is presented by Special Agent Schofield who also sums up some prior reasons when he maintains that,

Pursuit-related litigation is often initiated years after an incident, and departments can only refute allegations of negligence if they maintain contemporaneous documentation of the accident investigation and other records relevant to pursuit training and supervision. A formal monitoring mechanism, such as a pursuit-incident review board, provides managers with a basis for holding officers accountable for their pursuit-related conduct and provides the means to periodically reevaluate the effectiveness of pursuit policies and training programs.⁵⁰

The above writers have demonstrated that pursuit policy and training cannot stand alone. There must be additional, continued emphasis by management on pursuit policy and the training review process. Furthermore, supervisory control over pursuits must be a necessary component of any pursuit policy because a more experienced individual who is removed from the actual scene of the pursuit itself can claim an important advantage.

CONCLUSION

This literature review was intended to give the reader a detailed background on the issue of police pursuits. It has included past research that has been conducted as well as current research identifying major trends which have been established in the field. Opposing viewpoints on pursuits were presented in the literature review; however, the prevailing position that pursuits are a viable and successful police tool was supported by the empirical data. The research has shown that pursuits can be effectively managed and accidents reduced; however, even the perfect pursuit can have a fateful circumstance intervene which leads to a tragic accident.

Finally, this review has presented the five major components of a good pursuit program which have been articulated in the literature. These are the following: an information campaign; a specific, written policy; a training program that implements the policy; supervisory control over pursuits; and the management review of pursuits. It was explained how these components are complementary and must be implemented as part of an integrated program addressing pursuits. Furthermore, the impetus for these components was discussed and it was shown that current trends in pursuit policy have been influenced by the courts. Hopefully, the law enforcement community will continue to remain current on these issues or

experience further direction and control by court decisions.

Chief Grimmond sums up this situation best when he writes,

Police use of deadly force and their response to domestic violence incidents have been characterized by mandatory rules, regulations and restrictions imposed by the courts and legislatures--driven by special interest groups and the legal profession. This trend will continue during the 1990s, and unless the issue of police pursuits is strategically managed, it will undergo the same fate. Rather than wait for controls to be imposed from the outside, we must seize the initiative and direct our own futures.⁵¹

The solution remains in the hands of police agencies. They are most familiar with the pursuit issue and are keenly aware of the implications of bad pursuit policy. It is now up to them to ensure that pursuit policy not only remains a viable tool for police use but that this is seen as such by the public as well. Otherwise this tool may be taken from the police and controlled by legislation where it might lose its effectiveness.

The next chapter will examine the response of one police agency to the pursuit issue and how a policy was effectively implemented and managed to ensure its continued use and effectiveness as a law enforcement tool.

Notes

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30 Richard G. Zevitz, "Police Civil Liability and the Law of High Speed Pursuit," Marquette Law Review 70 (1987): 244.

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33 Schofield, 25.

34 Ibid, 28.

35 Grimmond, "Police Pursuits: Traveling a Collision Course," Police Chief 60 (July 1993): 45.

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CHAPTER 3

THE PURSUIT ISSUE: ONE DEPARTMENT'S RESPONSE

The California Highway Patrol

This chapter will examine one police agency's response to the police pursuit problem. The selected department is the California Highway Patrol (CHP). With its headquarters and academy located in Sacramento, California, this researcher was able to interview officers and supervisors and attend several demonstrations of both classroom and on-site training at the agency's Emergency Vehicle Operations Course (EVOC).

Initially, the chapter will focus on how the CHP has gained a position of prominence regarding pursuit policy as well as the data resources developed by the CHP which have made a significant contribution to the advancement of this field. Next, a recent, continuing survey of other state police agency pursuit policy will be presented. The CHP is very interested in responses of other police agencies to this issue. This survey is another of their data resources. Then, an examination of CHP driving and pursuit training will be presented. This will be followed by some comparisons with other police agency programs including the United States Air Force Security Police.

CALIFORNIA HIGHWAY PATROL DATA RESOURCES

The California Highway Patrol has become the leading police agency in the area of police pursuit problem

identification due to their long and continuing association with this issue. As stated earlier this association began in the early 1980s when the CHP commenced studying this issue in depth. In 1982 the agency undertook the most detailed pursuit research project to ever be undertaken by a police agency. This resulted in the publication of the frequently cited California Highway Patrol Pursuit Study of 1983. This research remains the norm by which all other pursuit studies have been measured. This was a remarkable accomplishment considering that the CHP is not a research organization. The CHP conducted this research in order to equip their organization to better meet the increasing demands placed on police agencies by the police pursuit issue. Therefore, the CHP applied the collected data directly to their department policy guidelines and training programs which introduced a pursuit policy that remains viable to this day, a model found useful by other police agencies.

Through a consistent and continuing review program the CHP has become a standard for the courts and state legislatures. In fact, the courts and the legislature have looked to the CHP for guidance on this issue which attests to the professionalism of any police agency. The agency remains alert to new trends and problems associated with the pursuit issue; and this is accomplished by good forecasting and systematic data collection. With this in

mind, the CHP has maintained an extensive data base which includes every pursuit initiated within their department since the early 1980s. Also, this data base includes information from various other police agencies within California which is available on the Statewide Pursuit Information Database Resource (SPIDER) System.¹

This data is compiled in an annual report which is distributed within the department together with any changes made in departmental policy or training as a result of the new data. Also, this annual report is forwarded to the California State Legislature under California Vehicle Code Section 14602.1. This allows legislators immediate access to the most current pursuit data available in the State of California.²

In addition to this data the CHP has initiated several other studies and task forces which have examined the police pursuit issue. These include the aforementioned CHP Pursuit Reports distributed by the 1991 Middle Management Class conducted for officers and civilian administrators. Also in 1991, the CHP published the Pursuit and Emergency Driving Task Force Report. This document, like the 1983 study, was intended to collect relevant data and then apply that data to both policy and training within the department. In fact, this particular report concentrated on three main topics: a comprehensive written policy, enhanced training, and effective supervision.³

The CHP library is a further source of data for agency policy makers. Containing primarily resources of a law enforcement nature, the CHP library has served CHP Academy cadets and personnel since its inception. Now with the increased emphasis on pursuits this library remains a significant source for books and other documents such as those mentioned in the literature review chapter of this thesis.

Finally, the CHP maintains a collection of material at the Emergency Vehicle Operations Course (EVOC) Center itself. Here the staff maintain current case law effecting pursuits especially those occurring in California. This is accomplished by following the daily court reporters within California.

Additionally, all major law enforcement journals and periodicals are continually reviewed for citations pertaining to police pursuits. When discovered, these sources are photocopied, distributed, and maintained on file.

The final source of data at the EVOC is gained through direct contact with other police agencies. This is precisely how the survey of other State Police agencies was initiated.

STATE POLICE PURSUIT SURVEY

To remain current on the police pursuit issue the CHP has periodically surveyed other police agencies in order to

review their respective policies and training programs. Along with this research the CHP has forwarded data on their own programs believing that shared data is an important phase of information discovery.⁴

The CHP is currently conducting a survey of other state police agencies regarding their written pursuit policies as well as the specific Pursuit Immobilization Techniques (PIT) that are employed to terminate pursuits. Each state police agency was mailed a questionnaire together with a copy of the CHP policy for comparison. Questions were limited to written policy review enquiries and PIT.⁵

As of this date 22 of 48 agencies contacted (California and Alaska not included for obvious reasons), have responded. The results have been informative and encouraging since it has been found that every responding agency follows guidelines similar to that of the CHP for pursuit control, supervision, and termination.⁶ Also significant is the fact that all these agencies have written policies relating to pursuits which was not so under ten years ago.⁷ It would appear as though the law enforcement community, at least at the state level, is responding well to the pursuit issue. Hopefully, departments at lower levels within these states will emulate this trend.

The CHP hopes to have this survey completed and analyzed by the end of this summer so that this information can be added to an already extensive data base on pursuits. It will also serve as a review and teaching guide for the CHP when conducting an annual review of their own pursuit policy.⁸ If any significant changes to the CHP's pursuit policy are forthcoming from this review then it can be certain that such findings will be incorporated into their vehicle driving training, and more specifically, into their pursuit training program which will be discussed in the following section.

CALIFORNIA HIGHWAY PATROL PURSUIT TRAINING

All driver training and pursuit training conducted by the CHP is initially taught at the CHP Academy to all new officers. Officers, once on active duty will receive refresher training and local situational hazard training but this section will concentrate on the training given at the Emergency Vehicle Operations Center (EVOC).

The EVOC is located on the 457 acre CHP Academy grounds in a restricted area just west of the academy classroom complex. Actual structures at the center consist of an administration, classroom, and vehicle maintenance building which also serves as an entrance to the vehicle training course. The course itself consists of a 1.9 mile banked high-speed track similar to any stock car racing track, a rear wheel drive wet skid pad of approximately

one-quarter mile, and a tactical training complex that resembles actual city and highway streets. This tactical training complex covers several acres and incorporates a four-lane highway and a front wheel drive wet skid pad.

All the areas of the EVOC are accessible by connecting non-tactical roads which ensures training continues uninterrupted by spectators or supervisors and trainers going between areas. Each area is also served by a control tower from which training officers can monitor vehicles on the course. Each vehicle at the EVOC is equipped with a radio so contact between students and trainers is constant for both immediate coaching and safety reasons.

The vehicles themselves are standard CHP automobiles that have been taken out of regular service and are used strictly at the EVOC. These consist of Ford Crown Victorias, Ford Mustangs, Chevrolet Caprice Classics and Chevrolet Cameros. There are over 50 vehicles available for training at the center and they are maintained by a full-time vehicle maintenance staff of four which has its own garage facilities and gas pumps. These vehicles are segregated into training types and outfitted accordingly. Those used for either high-speed driving or ramming training are set up with full roll cages and five-point safety harnesses. The ramming cars also have exterior steel roll bars welded on with the ramming cars in front and the suspect cars receiving rear end treatment. The

skid pad vehicles are equipped with four well worn tires to add to the gripping problem. This is just the opposite for all the other vehicles at the center which are equipped with High-Speed Rated General XP 2000 tires.

These tires are just one of the several safety features emphasized continually at the center. Others include the control towers; and the radios, seat belt harnesses, and roll cages added to the vehicles. Additionally, all students are required to wear helmets while on the course and there is always a CHP crash and fire truck out on the course if students are in training. This commitment to safety has resulted in a zero accident rate for the last three years of training at the academy.⁹ With these assets the complex resembles an automobile test facility similar to the major automakers.

Additional safety procedures are continually emphasized throughout the 52-hours of training that cadets receive at the EVOC. This training is divided between classroom and hands on driving on the course. Classroom training is conducted by one of the seven full time training officers (six instructors plus one supervisor who is also an instructor), and consists of lecture, diagraming maneuvers on chalk boards, and various videos relating to the course and high-speed pursuit driving.

Actual hands on driving makes up most of the training at the center as the course is designed for the maximum

amount of time to be spent in the vehicles. Instructors assign students to vehicles which are designated by detachable placards so that anonymity of drivers is maintained while out on the course. After this point students are only referred to by their vehicles alphabetical designation. This is intended to remove instructor bias and depersonalize criticism. The process appears to work well as instructors turn in evaluation sheets that only designate a letter rather than an individual.

The training itself is divided into three areas: high-speed driving on the large banked track; skid control handling on both the front and rear wheel drive wet skid pads; and all other driving training in the mock city streets and highway area.

The high-speed track allows trainees to reach speeds in excess of 115 miles per hour and also serves as a location for what the CHP terms a Code Three response exercise. Similar to most police agencies, Code Three for the CHP corresponds to an emergency response with lights and siren usually involving high-speed driving. For the EVOC Code Three exercise, an instructor drives a suspect car which the trainee has to initiate a tactical stop on. A pursuit is involved and the high-speed track allows for an area to reach freeway speeds. This exercise forces the trainee to not only keep the suspect vehicle in sight and

attempt to pull it over but it adds the realism of lights sirens and radio communications which the trainee must stay on top of. This type of realism is exactly what the CHP is trying to attain as it recreates the real world these cadets will soon face.

The wet skid pads are designed to represent all types of wet and slippery driving conditions. The intention in these exercises is for the trainee to intentionally break traction and then use correcting techniques to regain control of the vehicle. There are two separate skid pads to accommodate the different handling characteristics of rear wheel and front wheel drive vehicles.

The remainder of driver training is conducted in the street and highway mock up area. Here trainees spend hours going through such exercises as highway speed lane changes, alleyway driving, high-speed backing, and in-town high speed pursuit simulation. Additionally, this location offers trainees the opportunity to experience the different handling and braking comparisons between vehicles with standard brakes and those with Anti-Lock Braking Systems (ABS). After driving through the course with a car equipped with standard brakes, the trainees will go through the same course with an ABS equipped car. The differences are significant and could prove dangerous if an officer was unfamiliar with the differences. This area also serves as

the location for conducting vehicle ramming training which the CHP utilizes as a pursuit ending technique.

Vehicle ramming is one of the many Pursuit Immobilization Techniques (PIT) employed by the CHP. It entails waiting until the suspect vehicle is attempting to turn a corner and drops below 35 miles per hour. The pursuing officer then places his car in such a manner that it will make contact with the suspect vehicle just to the rear of the rear axle on the inside radius of the turn. Once contact is initiated the pursuing officer keeps heading forward which will force the suspect vehicle into a spin out which is unavoidable after just a 25 degree amount of turn by the suspect vehicle regardless of correcting techniques by the suspect.¹⁰ As long as the CHP officer continues to drive straight they will miss the suspect's vehicle and then concentrate on apprehension of the suspect. An interesting note about this technique is that the actual contact made between the vehicle is very slight. In fact the training emphasizes "brushing" the suspect's vehicle in such a manner that the suspect will probably be unaware that he was touched by another vehicle. It is actually the force vectors and turning dynamics that force the suspect vehicle into the uncorrectable spin out. This fact makes the term "ramming" an actual misnomer but the CHP employs the term since it depicts accurately the traditional

aspects of the technique. However, this may be a term the agency may wish to change as it may incite those groups opposing pursuits since the word ramming conjures up a violent image while the technique is actually quite nonviolent in nature. The final unique feature of this technique is that in 90 percent of the spin outs the suspect vehicle will shut off and possibly flood out so that it cannot be restarted. This is due to the rapid change made by the vehicle after the spin since the transmission has to accommodate going backwards. This makes apprehension of the suspect that much easier.¹¹

As stated earlier, each cadet is given 52 total hours of vehicle training and this is considered a pass/fail segment of cadet training. If a cadet fails driver training he is removed from officer candidacy. The actual wash out rate is approximately five percent.¹² Once again, the length and intensity of training demonstrates the CHP commitment to driver training.

The EVOC conducts refresher training for CHP officers, and it is a requirement every three years. This refresher training consists of a two hour, hands on driving course intended to reinforce the initial CHP training and emphasize any new training introduced since the last course completed by the officer.

Additionally, any CHP Division Commander may designate personnel for additional driving training. This can occur

when an individual has experienced several accidents or pursuit problems. EVOC staff point out that this is not considered punishment for the officer involved, but it is probable that these identified individuals have received both supervisor and peer pressure to conform to the more approved driving standards of the CHP.¹³

Finally, the CHP allows other police agencies to train on the EVOC course under the supervision of the CHP staff. This is an invitation for various smaller organizations to receive the benefits of a large driver training program. Instead of having to build and finance an entire facility on its own, these other departments may rent the CHP facility when academy classes are not in session. This serves as a source of revenue for the CHP, however, the funds gained are proportional to the amount spent to train the allied agency personnel.¹⁴ An additional benefit for all involved is greater sharing of information on driving and pursuit tactics which may be unavailable to smaller, under-funded agencies.

From this overview it is apparent that the CHP has a viable, contemporary training program for pursuits. The next section will offer comparisons to other programs within the United States.

CHP PROGRAM COMPARISON TO OTHER AGENCIES

The first comparison of driver training programs is with the Macon, Georgia Police Department. The Macon

Police Department is one of the largest law enforcement agencies in Georgia as it serves a portion of the greater Atlanta area. It's estimated that the department's officers drove over 2.5 million miles in fiscal year 1986.¹⁵ A result of driving all these miles was a large number of accidents and corresponding expenses. During an eight year period the department paid out over seven million dollars in costs associated with litigation and liability for accidents.¹⁶ The department's response was to introduce their own extensive drivers training program.

Like the CHP, the Macon program is divided into two areas: classroom time (four hours), and hands on driving (28 hours). The Macon program agrees with the CHP that time behind the wheel is the most important aspect of driver training. Also, exactly like the CHP, the Macon course is divided into three separate areas: a wet skid pad; a high-speed track, this time in a figure eight pattern; and a third course where close quarters driving is taught.¹⁷ Additionally, the Macon course contains control towers with radio communication to trainee cars much like the CHP towers. The Macon program adds one additional stress factor which is the placement of the car siren on the seat next to the driver. This is done in order to make the course as difficult as possible, even more challenging than the real conditions.¹⁸

In summary, the Macon program is almost identical to the CHP and this has proven to be good news for both departments because Georgia has noted a 95 percent reduction in skidding and braking accidents and a 30 percent decrease in expenditures for accidents.¹⁹ For the CHP it is positive because the agency can identify another similarly successful program when critics voice concerns.

The second driving program comparison is with the Bob Bondurant Law Enforcement Driving Academy, currently based at the Firebird International Raceway near Phoenix, Arizona (the course used to be taught at the Sears Point Raceway near Sonoma, California). Bob Bondurant is a former Formula One and endurance car racer and has taught the fundamentals of performance driving at his School of High Performance Driving since 1968. Graduates of the Bondurant school include members of the Los Angeles Police Department, Los Angeles Sheriff's Department, Louisville, Kentucky, Police Department, Maricopa County, Arizona, Sheriff's Department, and the San Francisco Police Department.²⁰

The Bondurant course is divided into three days and offers training similar to both the Macon and CHP courses but with more emphasis on vehicle dynamics and the underlying reasons why a vehicle handles as it does. This is to be expected considering the extensive knowledge possessed by a former race driver such as Bondurant.

Another unique feature of the Bondurant course is the use of a specially designed "outrigger" skid car that replaces the wet skid pads used at the other courses. A car equipped with these computer controlled outriggers can add or reduce traction to any of the wheels either separately or in combination which allows the instructor to simulate all types of skids and traction problems, even tire blow outs.²¹

Another similarity to the CHP program is the use of typical police cruisers by Bondurant. Students drive Ford Mustangs, Crown Victorias, and Lincoln Grand Marquis which are outfitted with police packages, radios, and roll cages.²²

Once again, this school is very similar to the CHP program and offers police agencies unable to afford their own course an opportunity to send their officers to a recognized driver training program.

The final program to be compared to the CHP is the United States Air Force Security Police with its academy located at Lackland Air Force Base in San Antonio, Texas. The USAF Security Police differ greatly from civilian police agencies because additional training is necessary to insure the military wartime mission of the Security Police. However, the military law enforcement mission remains much the same as its civilian counterparts such as the amount of police vehicle patrolling preformed by the Security Police.

The only exception to this is that very few air force bases have roads where high speeds are allowed or even made possible and this reduces the possibility for pursuit situations. Additionally, Security Police can close the gates on a base and effectively confine any pursuits to a limited area and so there are simply very few actual pursuits on air force bases.

All this may impact the actual need for a pursuit driving course and explains why the USAF does not have one at this time. Instead, Security Police are subject to limited initial driver training at the Security Police Academy and this is followed by extensive On-The-Job Training (OJT) program at their individual bases. The problem with this is that manning requirements frequently reduce the actual amount of behind the wheel training given to a new Security Police officer. Also, high-speed driving training is not built into the USAF program. Considering the trend in liability cases this is an area the USAF Security Police need to reevaluate.

Even in the area of pursuit policy the Security Police could use a set of specific written policy guidelines used by agencies such as the CHP. Presently, the major guideline provided Security Police regarding pursuits falls under Air Force Regulation 125-3 which covers Security Police policies. Under the Security Police Patrol Operations section there is guidance, but it follows the

vague approach so common to pursuit policies written prior to the court cases mentioned in Chapter Two.²³ It is not that the USAF has not attempted to address pursuit policy at all, rather they have done what so many other police agencies have done. That is, put out a written policy and attempt to cover possible contingencies but leave the policy open enough for individual officer discretion. This seems an appropriate response to the pursuit issue because the agency allows individual officers to use their own experience and discretion to determine a response. The problem is that this type of policy has been subject to much attack by liability lawyers and the courts. Therefore, the trend established by agencies like the CHP, which formulates a much more specific and detailed policy which decreases officer discretion and increases supervisor responsibility, appears to be the better type of policy at this time.

Additionally, the fact that the USAF has no central driving or pursuit training program which instructs and reinforces its pursuit policy places this organization at a possible legal disadvantage.

Basically, the Air Force Security Police find themselves in the same position that many civilian police agencies find themselves, that is, a position where they are required to meet the ever increasing demands of the public and the courts while receiving decreasing funds to

meet these demands. The agency must decide if it is economically feasible to build, staff, and maintain a driving training facility or whether to retain the status quo which costs nothing but may place the agency at the mercy of a negligence or liability suit in the future. This is a very difficult decision to make and with the current economic outlook it does not appear that the budgeting situation for police agencies will improve in the near future. This changing situation continues to make future decisions all the more difficult.

Notes

- 1 Department of California Highway Patrol, "Final Report - 1992 Vehicle Pursuit Data," Information Bulletin, Apr. 1993.
- 2 Ibid.
- 3 California Highway Patrol, "Pursuit and Emergency Driving," Task Force Report, May 1991: 1.
- 4 Stephen Poulds, Personal Interview, 7 July 1993.
- 5 California Highway Patrol, "Pursuit-Ending Techniques," State Police Pursuit Survey, July 1993.
- 6 Ibid.
- 7 Ibid.
- 8 Poulds.
- 9 Tammy Bogard, Telephone Interview, 28 July 1993.
- 10 Dean Bogios, CHP Academy Vehicle Ramming Demonstration Instruction, 12 July, 1993.
- 11 Ibid.
- 12 Bogard.
- 13 Poulds.
- 14 Ibid.
- 15 Charles Goodroe, "Cutting Expenses and Injuries With a Driver Training Program," Law and Order, Mar. 1988, 22-23.
- 16 Ibid, 23.
- 17 Ibid, 24.
- 18 Ibid.

19 Ibid, 25.

20 Edwin Sanow, "In Hot Pursuit: Law Enforcement Driving Academy Helps Officers Make it Safely to the Scene," Law And Order, Mar. 1991, 24.

21 Ibid.

22 Ibid, 25.

23 Department of the Air Force, "Security Police: Security Police Policies and Procedures," AIR 125-3, May 31, 1991, 33-34.

CHAPTER 4

SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

Summary

Police pursuits became a controversial topic during the 1980s. Prior to that time, pursuits fit into the category of police work that was accepted as a routine part of a police officer's job and any problems associated with it were a concern to police agencies only. However, the continuing growth trends in both population and urbanization, combined with the American reliance on the automobile created a situation where the number of police pursuits increased dramatically. Along with this increase in pursuits was a subsequent increase in the number of overall accidents associated with pursuits. In the late 1970s and continuing thorough the 1980s, the media focused on this increase in accidents and began portraying them on television. This resulted in increased concern by the general public which prompted their representatives in state legislatures to pass legislation addressing police pursuit issues.

Concurrently, the courts have introduced a trend of attaching negligence to the police for their actions during pursuits. This has prompted many liability case lawyers to begin suing police agencies or their municipalities on behalf of clients. This resulted in several high dollar awards from the courts, or in many cases, settlements out

of court which invariably burdened the taxpayers from their respective municipalities.

This caused much condemnation among the taxpayers, the municipalities, and finally, the police who also began to realize that there was a serious and growing problem with pursuits. Beginning with the California Highway Patrol Pursuit Study of 1983, more and more police agencies began to take a close look at the police pursuit issue and what their response to it had been to that point.

This examination of the police pursuit issue was begun with some questionable research in the 1960s and did not develop into a body of systematic research until the 1980s. What brought respectability to the studies was the cooperation of academic scholars and law enforcement practitioners who conducted in-depth research showing similar results and which did not suffer from the methodological limitations associated with earlier studies.

What this increasing body of knowledge concluded is that a high number (approximately 30 percent) of accidents were associated with pursuits but the actual number of serious accidents and injuries or fatalities was much smaller than known in previous studies and portrayed in the media.

Another conclusion addressed by this research was the success rate of police pursuits and how viable they are as a tool for the apprehension of criminals since over 75

percent of pursuits result in apprehension. It was even shown that a very large number of the apprehended suspects (over 50 percent) were already wanted for other crimes. This supports the contention that those who run from the police have a reason to do so; they are not just innocent citizens. What all this combined data led to was a much clearer picture of the police pursuit issue.

This increased body of knowledge created a better situation for the law enforcement community because it at least established the parameters of the problems associated with pursuits. However the knowledge alone did little to correct any of the problems identified with pursuits. This was still left up to the police agencies who found themselves facing increased pressure from the media and the public to find resolutions to these problems. In addition, the courts and legislatures became unwelcome partners in pursuit problem resolution due to their imposition of controls and direction to the police. This situation was untenable for police agencies and they began to apply the research to their policies and programs.

Through the research process the emergence of five major trends in pursuit problem resolution have emerged. These are the following: informing the public, usually through a formal information campaign; a very specific and defined written police pursuit policy; a police driver training program that follows the guidelines of the

agency's written policy; increasing the role of supervisors in pursuits; and a continual, management review process which examines pursuits similar to the police review in use of force situations. These five integrated components have become the basis for any successful police agency response to the pursuit issue.

One police agency which has a policy and continues to respond successfully to the police pursuit situation is the California Highway Patrol (CHP). Beginning with the pioneering 1983 Pursuit Study, the CHP initiated a commitment of resources and personnel to both study and guide its pursuit policy into the 1990s and the next century. This has resulted in a pursuit program which is recognized as one of the finest in any law enforcement community. The CHP is in a position to serve as an example to other departments and to assist and direct their efforts to implement and maintain a successful pursuit program.

The CHP not only meets the criteria of the five components of a successful pursuit program, it sets the standard by which the entire law enforcement community can be compared. Most of these components have already been covered extensively in this thesis, however the most recent success the CHP has enjoyed is in the area of public information.

The CHP has been able to use television, which in the past has had a negative impact for police, to an advantage.

CHP Commissioner, Maurice Hannigan, acts as live narrator for the hit television program Real Stories of the Highway Patrol. This program reveals to the public how real police officers from around the country operate on a daily basis. Additionally, the program offers Commissioner Hannigan the opportunity to provide insights into the meaning of police directives and policies relating to each of the incidents portrayed in the television production. Finally, at the end of each show the commissioner presents a message to the viewers regarding one of the many relevant topics involving law enforcement in contemporary society. These topics deal with issues such as drunk driving, car jacking, police pursuits, and speeding or reckless driving.

Here again, with the positive use of the television medium the CHP has demonstrated its continued commitment to providing proactive and commendable police services to the public. Every law enforcement department in the United States can benefit from an examination of CHP policies together with the training used by the CHP when implementing such policies.

PURSUITS: WHAT THE FUTURE HOLDS

The study of the police pursuit issue has taken new direction in recent years with two main trends currently emerging. The first of these involves the police use of force as well as how police pursuits are being examined as a possible form of force used by police. There are several

researchers in the field, most notably Alpert and Dunham, who have begun to seriously compare police pursuits to police use of force. The comparisons are clearer when one notes how much the courts and legislatures are getting involved in issues of police use of force policy matters. If the police are going to maintain any sovereignty over the police pursuit issue then they must learn from the history of use of force policy.

Therefore, the fact that pursuits are being considered in some circles as police use of force could be a negative trend as far as the police are concerned. They should view this as an attack on their control over pursuit policy and training, and vigorously counter such comparisons with their own research which has shown that police can effect pursuit apprehensions while rarely applying any type of force.

An important resource citation for anyone wishing to explore this trend is The Police Use of Force by Donald O. Schultz and J. Gregory Service, which provides extensive background information on the use of force. The authors, both instructors in criminal justice at Broward Community College in Miami, devote an entire chapter to the pursuit issue and the possibilities arising for civil litigation resulting from police pursuits.¹

The second trend involving the pursuit issue deals with the search and seizure laws under the Fourth Amendment

of the U.S. Constitution. Recent court cases, most notably the U.S. Supreme Court case, California v. Hodari D., have shown both police (prosecutors) and apprehended suspects using existing laws to gain an advantage in the courtroom.² Basically, the prosecution argument has been that illegal items found pursuant to a pursuit, regardless of the initial reasons for the pursuit, are subject to seizure and use against the defendant. The defense has been holding an opposite argument in that the police are forbidden under the Fourth Amendment from seizing items from individuals when they do not have a reasonable suspicion that criminal activity involving the seized items has been taking place until that item has been discovered.³ In other words, the defense has maintained that police do not have the right to give chase and then benefit from that chase when the reason for the chase was unrelated to the later discovered items.

Thus far the courts have ruled in favor of the police, but organizations such as the American Civil Liberties Union (ACLU) are opposed and believe that constitutional rights are being violated.⁴ This, too, should be a concern for the law enforcement community if they do not wish to lose additional discretionary powers in apprehending suspects who were in possession of illegal materials regardless of the seizure laws. Once again, police professionals must conduct valid research which shows repeatedly that pursuits result in a high rate of

apprehension and that of those apprehended, approximately 50 percent, are wanted for various other crimes.

These are the two contemporary trends which are associated with the issue of police pursuits. The study of pursuits is a relatively new area of research, and the future holds many possibilities for additional types of research. The most promising direction appears to be the area of comparison studies between agencies, especially those having lower accident rates.

The pioneering work of the Australians, Neil Brewer and Gerry McGrath, should be replicated. The reader will remember that these researchers found similar apprehension rates when comparing American and Australian studies; however, they reported a remarkably lower accident rate (only 4.9 percent) in their country when compared to the much higher American rate of around 30 percent. While consenting that there are many possible causal factors for this accident ratio difference, it would still serve the American law enforcement community to explore and identify causes for these differences.

The assessment of police driver training programs in order to determine their success is another promising area for future research. Some studies have already been conducted in this area, but such training programs are relatively new and require extensive review. These studies should incorporate fiscal comparisons between costs and

savings including projected loses from liability suits. This would be helpful to police practitioners fighting against decreasing funds from legislative bodies. Finally, these studies would provide police with more feedback on those programs worthy of replication by other agencies.

RECOMMENDATIONS

Specific recommendations for police agencies are to be found throughout this thesis. First and foremost, proper written guidelines for pursuits must be formulated. These guidelines must be specific and enforceable without placing the individual officer or department at risk for negligence. The second issue to be addressed by the police agency is the proper training of their officers. There are various options; in-house training similar to the CHP; or contracting out to programs like the Bondurant Driving School or another qualified police agency. Police departments which implement these recommendations will reduce the possibility of legal liability problems.

The police must not insulate themselves from the very public they are sworn to protect. They must foster better community relationships through proactive means such as information campaigns similar to those used to control drunk driving. The television show sponsored by the CHP is an innovative form of communication. It demonstrates how a police agency can effectively use the media to the

benefit of all police agencies because of national coverage.

Finally, police organizations such as the CMP and the International Association of Chiefs of Police (IACP) are lending advice and support to smaller, less well funded agencies which are attempting to meet the increasing obligations associated with pursuit policy issues. An example of this is the Model Pursuit Policy formulated by the IACP which encompasses all the requirements of an effective pursuit policy in a ready to apply format. This eliminates much of the work that a smaller agency would have to perform to meet these standards. Smaller agencies should take full advantage of these resources to ensure the success of their own agency policies.

CONCLUDING REMARKS

Currently, police pursuits are a leading police reform issue. This is a new area of study which has developed a relevant body of knowledge. First, the high percentage of accidents involving police pursuits is significant. However, these accidents are rarely serious in nature or costly to human life. Secondly, pursuits are a successful apprehension tool for the police. If abolished as an established police procedure, there would be a very significant drop in the number of suspects brought into custody because suspects would then recognize that they could not be chased by a police officer. The impact of

this is uncertain, but it would dilute an effective crime control policy. Finally, there are critics who are attempting to eliminate or place limitations on the use of police pursuits. For these reasons the task of revising pursuit policies belongs in the hands of police professionals. They must retain control over pursuit as an effective police procedure or observe its growing ineffectiveness due to curtailment by police critics.

Notes

1 Donald O. Schultz and J. Gregory Service, The Police Use of Force, (Springfield, Illinois: Charles Thomas, 1981), 21-42.

2 Victor R. Quiros, "The Impact of California v. Hodari D. upon Police Pursuits in California: The Fruit of the Poisonous Tree is No Longer Poisonous," Western State University Law Review 19 (1992): 641-663.

3 Ibid, 641-642.

4 Ibid.

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